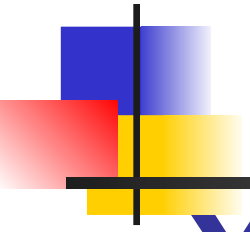
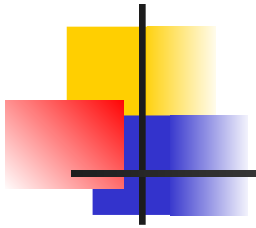
Sometimes You Get What You Ask For -

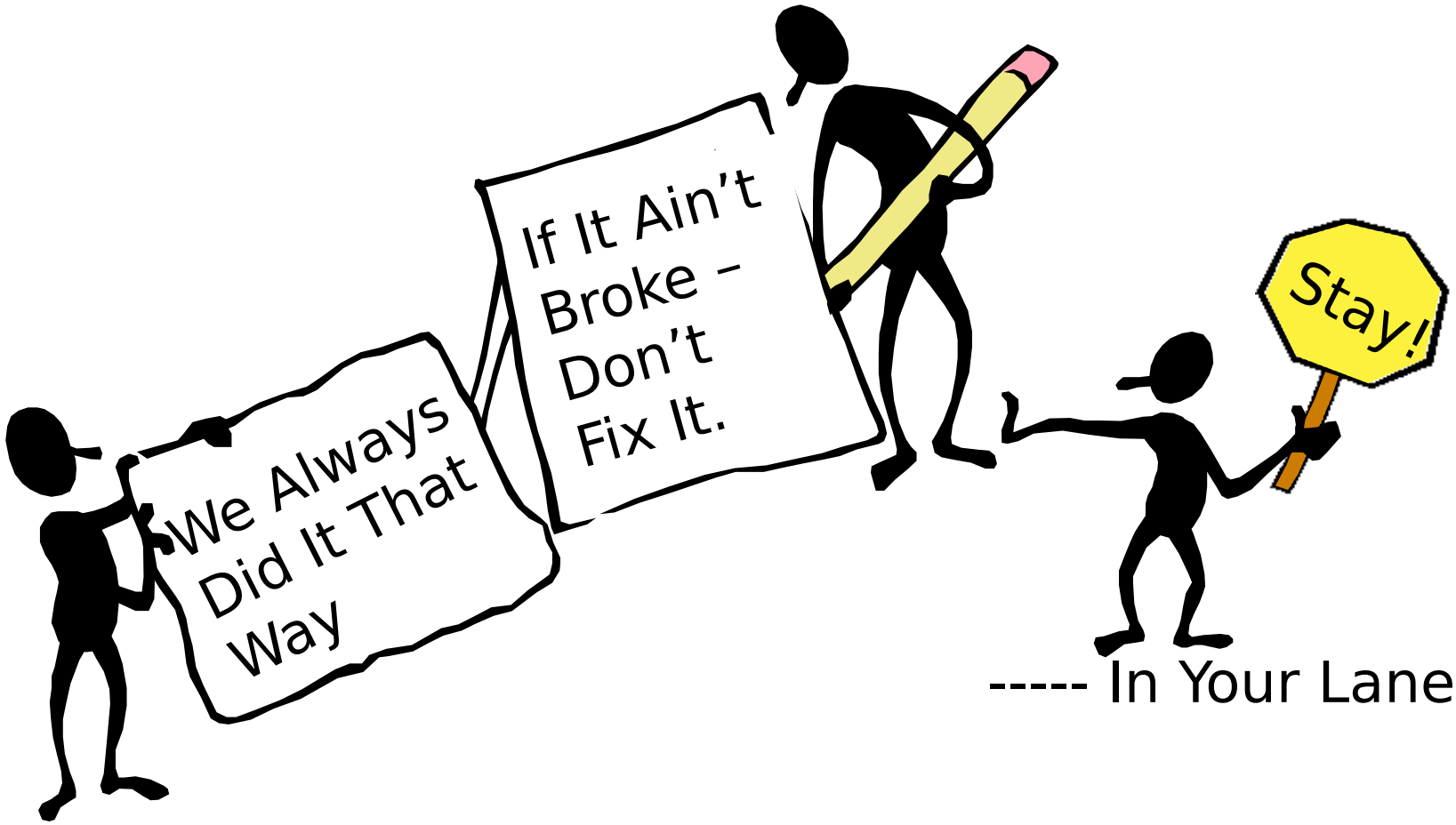


You May Not Always Get What You Wanted – But You Find Sometimes You Get What You Need



- Version of presentation is available at
- http://www.hq.usace.army.mil/cere
- Banner on top – link to Conferences
  - Then to the RE CoP Conference 2004

Revising Regulations – "*An Interesting Study"*



Why do we do Assemblies?

- A **separate** audit assembly used to actually be sent to Army Audit Agency (40's - 50's) for a financial audit.
- A **separate** Final Title Assembly went to DOJ
- The **separate** Historical File went to Records
- We originally created separate **assemblies** because they went to **different** places
- Each had to stand alone for that office to look at.

Why do we do Assemblies?

- Army Audit delegated to HQUSACE, P&C Division, somewhere in late 60s/early 70s.
  - P&C took over what AA did – validated money and records
- DOJ delegated acquisition to HQUSACE, Acquisition Division, including final title opinions
  - Final Title Assemblies came to HQ, but to Acquisition attorneys
- Districts prepared:
  - 2 separate Assemblies to send to
  - 2 separate offices in Headquarters

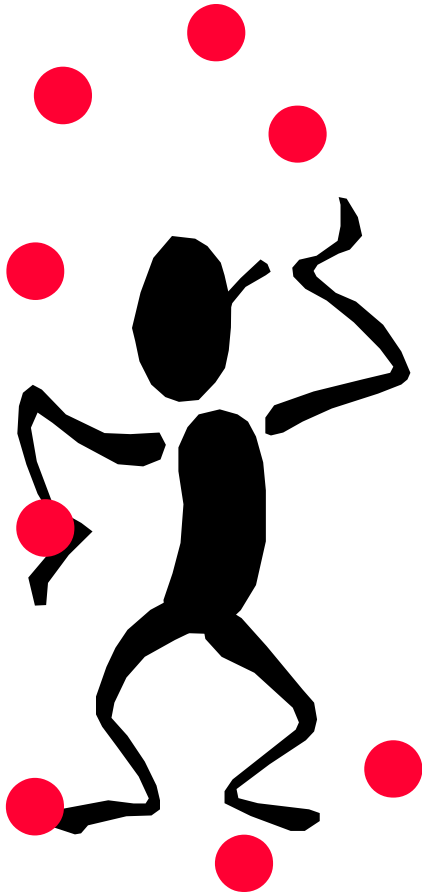
----- In Your Lane

Why do we do Assemblies?

- In the meantime the CFO Act had come on the scene
- Rather than rewrite Chapter 14 or even look at the impact of the CFO Act on the “Audit” process, we issued "new" Chapter 16
  - to comply with Audit requirements on expensing/cost of structures, accounting for property, plant and equipment
- The financial part of the RE “Audit” got taken over by the new chapter and CFO Act compliance

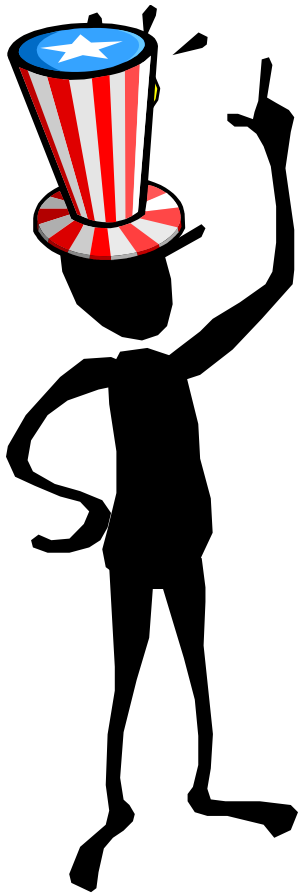
Why do we do Assemblies?

- Delegations came from different offices
- Over the last 30 years as we delegated down
  - We forgot to share **why** we did it,
  - We did not capture what **“magic”** HQ had performed, or
  - We did not look at whether or not it needed to stay **separate,**
- So all the field had was the regulations as written with no new guidance –
  - which only talked about the rigid assembly preparation
  - Assemblies now had taken on a life of their own.
- But the substance of why we did what we did or what it was far got lost



Why do we do Assemblies?

- Now that the district does it all, there is no need for separate assemblies since they aren't going anywhere –
- But the reason for the assembly – the work that was intertwined in the assembly format needs to be done
  - The District must **validate** that all tracts required have been acquired, maps are correct & permanent files set up
  - Validate that a **final title opinion** has been done – but no assembly needed
  - Enter data into the right system:
    - **Financial closeout** takes place in CEFMS
    - Place property on the **Inventory** in REMIS.



Revising Regulations –

Status of Regulations

- Copy of Regulations at
- http://www.hq.usace.army.mil/cere
  - Link with button on left -- Policy&Regulations
- ARs have been pulled due to consolidation effort – draft only
- IREMs drafts only

Changes in the Regulations

- **Those shown in red have not been released yet**
- **All revised regulations incorporate the new USACE 2012, such as the Regional Integration Teams.**
- **Each EC will rescind the corresponding ER 405-1-12, Chapters**
- **Revised policy is on the Real Estate website – treat as a policy memorandum, in draft EC format**
- **Use now**

Breakdown by Business Process

- **EC 405-1-0x - Basic RE Processes – Foundation for all others**
- **EC 405-x-1x - Acquisition**
- **EC 405-1-20 - Claims, Jurisisdiction, Annexation**
- **EC 405-1-80 - Management of Title and Granting Use**
- **EC 405-1-90 - Disposal**

Basic Real Estate Processes

- EC 405-1-01, Real Estate – Program Management and Control
- EC 405-1-02, Real Estate – Project Inventory Management, Accountability and Documentation
- EC 405-1-03, Real Estate – Mapping
- EC 405-1-04, Real Estate – Appraisal

EC 405-1-01, Program Management and Control

- Chapter 1, Real Estate PM and Control
  - Revisions include
    - PMBP process and responsibilities
    - References to the various information systems,
    - Internal control: DA Form 11-2R, Management Control Evaluation Certification Statement, and the annual assurance statements which come from various Management Control Review Checklist, contained in the applicable Army Regulations, and other internal control reviews
    - Command Management Review (CMR) measurement

EC 405-1-01, Program Management and Control

- **Chapter 14, Recording, Reporting, and RE Information Systems**
  - Revisions include:
    - Discussion of various real estate information system, financial systems and P2
    - Rescinds several obsolete ENG forms where information is now handled through the RE Information Systems

EC 405-1-01, Program Management and Control

- Chapter 11, Real Estate Resource Management
  - Revisions include:
    - An overview of Planning, Programming and Budgeting and Execution System (PPBES) and the Real Estate budget formulation and execution within that context.
    - A discussion of the various programs for which we have financial responsibility
    - Incorporates the new Installation Management Agency, which replaces the MACOMs for real property

EC 405-1-02, Project Inventory Management, Accountability & Documentation

- **Chapter 16, Project Inventory Management, Accountability and Documentation.**
  - Revisions include:
    - Name Change
    - CFO Act issues from the recent DOD IG review
      - May still be some changes as the DOD IG finishes the test audits
    - PMBP
    - Clarifies the roles of Resource Management and Real Estate

EC 405-1-02, Project Inventory Management, Accountability & Documentation

- Chapter 10
  - Summarizes:
    - Clarify the role of the Real Property Accountable Officer (RPAO) and the responsible employee who is the hand receipt holder (HRH) for all USACE-controlled real property in the inventory.
    - All assets under $25,000.00 will be expensed.
      - Capitalize real property valued at more than $25, 000 that has an inherent useful life of two or more years.
      - Discusses exceptions for Power Marketing Agency assets.
    - How to process assets acquired through various methods or “found on works”

EC 405-1-02, Project Inventory Management, Accountability & Documentation

- Chapter 16
  - Revisions continued:
    - Section on Real Property Reconciliation
    - Section on Records, ledgers, systems
    - Physical Inspection requirements as a separate Inventory issue and not as part of the Utilization Inspections, from Chapter 8
    - Numbering systems for facilities and REMIS numbers
    - Valuation methods
    - Adds several formats to the Chapter

EC 405-1-03, Mapping

- **Chapter 3, Mapping**
  - Revisions include:
    - Delegates review and approval of preliminary project maps, and revisions, to the district Chief of Real Estate, or an appropriate branch chief delegated this approval authority. Approval of the preliminary project maps shall constitute approval of the acquisition lines/limits.
    - No longer requires maps to be ‘audited.” Adds a new validation process. Emphasis on quality assurance/ quality control processes

EC 405-1-03, Mapping

- **Chapter 3, Mapping**
  - Revisions continued:
    - Criteria, general format, forms development, approval authority, maintenance, and distribution of project maps reflecting graphic depiction of all lands acquired or disposed
    - All real estate mapping activities, whether performed by government employees or contractors, will be performed by qualified persons using applicable cartographic and land surveying standards. Provides guidance on contracting.

EC 405-1-03, Mapping

- **Chapter 3, Mapping**
  - Revisions continued:
    - New projects and significant revisions and additions to existing projects will be accomplished by the use of Commercial Off-The-Shelf (COTS) Computer Aided Drafting and Design (CADD), Geographic Information System (GIS), and/or any other approved Government or commercial software and systems
    - Adds websites for various sources of information
    - Revised Section on Surveys, including digital data

EC 405-1-04, Appraisal

- **Chapter 4, Appraisal**
  - Revisions include:
    - Streamlined authorities to districts for more efficient operations
    - Incorporated old EC on recruiting and inlease actions
    - Added guidance on some unique properties, such as contaminated and concept of negative value.

Acquisition (AR 405-10)

- EC 405-3-10 – Real Estate – Planning
- EC 405-1-11 – Real Estate – Acquisition
- EC 405-2-12 – Real Estate - Roles and Responsibilities: Civil Works
- EC 405-1-13 – Real Estate – Validation Process and Historical Files
- EC 405-1-15 – Real Estate – Inleasing
- EC 405-1-16 – Real Estate – Relocation Assistance
- EC 405-1-17 – Real Estate – Relocation of Utilities and Facilities

EC 405-3-10 – Planning

- **Chapter 2, RE Project Planning - Military**
  - Revisions Include:
    - Civil portion moved to Chapter 12
    - District is delegated authority to proceed with acquisition where:
      - Legislative authorization, appropriation is available, requirements have been validated by the appropriate approving official, and necessary clearances have been obtained
    - District designates land to be acquired, the estate to be acquired, and the amount of funds available for the acquisition, for Army projects
    - Eliminates requirement for a “Directive” from HQ

EC 405-3-10 – Planning

- **Chapter 2, RE Project Planning - Military**
  - Revisions continued:
    - Projects done for non-DOD entities will follow the authorities, policy and regulations applicable to that entity. Army Regulations do not apply. AF policy applies to AF actions.
    - Site selection will be the primary responsibility of the using service, which may request the District Engineer to prepare a Real Estate Planning Report or Real Estate Summary, making reference to the prior Site Selection Report if one was prepared.
    - Discussion of the Rural Development Act
    - Updated Title 40 citations
    - Customer approves final acquisition lines.

EC 405-1-11 – Acquisition

- **Chapter 5, Acquisition**
  - Revisions Include:
    - Major update
    - Electronic formats attached as exhibits- not ENG forms
    - New DOJ Guidance on acquisition and titles
    - Clarifies roles of closing agent and reviewing attorney
    - Moves inleasing to a separate EC, EC 405-1-15
    - Condemnation on behalf of Local Sponsor moved to Chapter 12

EC 405-2-12 – Roles & Responsibilities: CW

- **Chapter 12, RE Roles & Responsibilities for Civil Works: Cost Shared and Full Federal Projects**
  - Revisions Include:
    - Civil Planning will be here and not in Chapter 2
    - Clarified that fee is required for long-term disposal sites on navigation project
    - New separate section on CAP
    - Defines approval level for solicitations, bid openings and awards w/o all real estate
    - All guidance on condemnation on behalf of non-Federal sponsor will be here and not Chapter 5
    - Guidance on when sponsor refuses to do credit appraisal

EC 405-1-13 – Validation Process & Historical Files

- **Chapter 13, Historical Records and Validation Process (Formerly “Audits”)**
  - The validation process is a key real estate business process.
  - As a major landholding agency, with delegated authority from the Department of Justice to approve title in the name of the United States, and with the Chief Financial Officers (CFO) Act accounting standards, we have a fiduciary duty to ensure that the inherently governmental oversight and validation takes place efficiently and effectively.
  - Team approach - validate as you go –
    - Closing Agent, the Reviewing Attorney, the mapping staff and the validation staff.

EC 405-1-13 – Validation Process & Historical Files

- **Chapter 13, Historical Records and Validation Process (Formerly “Audits”)**
  - Revisions Include:
    - Focus changed from rigid assembly to a validation, QA/QC process,
    - Eliminates several ENG forms and replaces with reports under REMIS and CEFMS.
    - Deletes requirement for Audit Assembly
    - District will validate that USA has title to all property in the project, that no tract is left out, and create a historical file with appropriate documents in it.
    - Files will be updated for any additions or disposals.
    - District will maintain changes in jurisdiction
    - Work still there, just redirects focus

EC 405-1-15 – Inleasing

- Chapter 5a, Inleasing *(new number)*
  - Revisions Include:
    - Delegates to the field all authority currently held at Headquarters related to leasehold acquisition of real property
    - allows redelegation to the District Chief of Acquisition or equivalent position within real estate
    - Process under various authorities, including DA and GSA's delegated authority
    - Recruiting Facilities Program (RFP) implemented in accordance with the Recruiting Facility Program Consolidated Policies and Procedures Guidance booklet, which is updated annually

EC 405-1-15 – Inleasing

- Chapter 5a, Inleasing *(new number)*
  - Revisions continued:
    - Title 10, USC 2662 reporting requirements and preparation guide
    - Economic policy and analysis requirements and certain delegations
    - Implementation of the Rural Development Act of 1972
    - [DOJ has recently raised an issue of doing title when term is 30 years or more – being added].

EC 405-1-16 – Relocation Assistance

- Chapter 6, Relocation Assistance
  - Revisions Include:
    - Changes in the Uniform Act
    - Qualification standards for a Relocation Assistance Specialist and for Attorney to review appeals
    - Changes as to when relocation benefits are to be paid – expanded from acquisition project to include federal demolition projects
    - Reports will be generated by REMIS
    - Appeals to the Division are final, unless applicant request HQ review.

EC 405-1-17 – Relocation of Utilities & Facilities

- Chapter 17, Relocation of Utilities and Facilities w/Agreements
  - Revisions Include:
    - Publishes chapter that has bumped around from the old Engineering Contract book, EFARS and back to real estate
    - Not the same type of relocation as Chapter 6
    - Final draft almost ready

Jurisdiction, Annexation, Claims

- Exam 1 (AR 405-15, 20, and 25)
  - (AR 405-01, Jurisdiction, and Annexation, and Claims

EC 405-1-20, Jurisdiction, Annexation, Claims

- Chapter 9a, Legislative Jurisdiction
  - Revisions Include:
    - Changes in Assembly
    - Incorporates new Title 40 citations and changes
- Chapter 9b, Annexation
  - Revisions Include:
    - Eliminates Annexation Assembly unless we wish to object to annexation
    - Notice only if do not

EC 405-1-20, Jurisdiction, Annexation, Claims

- Chapter 10, Claims
  - Revisions Include:
    - Changes in who hears disputed claims – GAO replaced by Treasury
    - Clarifies cross District claims
    - Changes in judicial interpretation on taking claims (no longer implied contract needed)
    - Changes from Army Claims Service

Management of Title & Granting Use (AR 405-80)

- 405-1-80, RE – Management of Title

EC 405-1-80, Management of Title & Granting Use

- Chapter 1, Roles and Responsibilities *(old section from chapter 8, new number)*
  - Revisions Include:
    - PMBP
    - USACE 2012
- Chapter 2, Management of Title *(old section from chapter 8, new number)*
  - Revisions Include:
    - Updates on encroachments
    - New EO 13327, Asset Management
    - FPMR replaced by FMR

EC 405-1-80, Management of Title & Granting Use

- Chapter 3, Stewart B. McKinney Act Procedures *(new number)*
  - Revisions Include:
    - Incorporates previous policy memos into regulation
- Chapter 8, Granting Use
  - Revisions Include:
    - Expanded discussion of Consideration, Mitigation of damages, and Administrative Expenses
    - Increased execution delegation
    - new section on Cooperative Agreements
    - Changes in 10 USC 2667 & Enhanced Use Leasing
    - Title 40 recodified with new numbers

Disposal (AR 405-90)

- EC 405-1-90, Disposal

EC 405-1-90, Disposal

- Chapter 11, Disposal
  - Revisions Include:
    - New section on preparation of deeds
    - Deed model template
    - New Administrative Expenses and Closing costs policy
    - Title 40 recodified
    - FPMR replaced by FMR

Revisions to the AR 405 series

- ARs were being revised to show the new Installation Management Agency sturcture
- DASA(I&H) has requested that all regulations be consolidated into one
- AR 405-00, Real Estate, *Real Estate Life Cycle: Acquisition, Management of Title, Granting Use and Disposal of Real Property,* is in final staffing